



TEXAS HIGHER EDUCATION COORDINATING BOARD

**REQUEST FOR APPLICATIONS**

Emergency and Trauma Care Education Partnership Program

2016-2018

Graduate Medical Education

NOTICE OF INTENT DEADLINE:

October 15, 2015, 5:00 PM C.T.

APPLICATION DEADLINE:

November 6, 2015, 5:00 PM C.T.

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## **1 OVERVIEW OF FUNDING OPPORTUNITY**

### **1.1 PROGRAM TITLE**

Emergency and Trauma Care Education Partnership Program (“ETEP”)

### **1.2 SYNOPSIS OF PROGRAM**

In 2011, the 82nd Texas Legislature created the Emergency and Trauma Care Education Partnership Program (“ETEP”) to address the state’s need for physicians and registered nurses with training in emergency and trauma care. ETEP will provide funding support for partnerships between Hospitals (as defined in Appendix A) and graduate medical education programs in emergency and trauma care to increase training opportunities in the medical specialty/subspecialty areas of emergency medicine, pediatric emergency medicine, and surgical critical care. The program will provide similar support for partnerships between Hospitals and graduate nursing programs to increase the education and training experiences in emergency and trauma care for registered nurses pursuing graduate education.

This Request for Applications (“RFA”) is to support partnerships between Hospitals and graduate medical education programs in emergency and trauma care (hereinafter referred to as “ETEP GME Program”).

The THECB intends to issue a separate RFA relating to support for partnerships between Hospitals and graduate nursing education programs in emergency and trauma care.

### **1.3 POINT OF CONTACT**

Suzanne Pickens  
Senior Program Director  
Texas Higher Education Coordinating Board  
Email: [ETEP@thecb.state.tx.us](mailto:ETEP@thecb.state.tx.us)  
Phone: 512-427-6200

## **2 AWARD SUMMARY**

### **2.1 AVAILABLE FUNDING**

ETEP is funded from an appropriation of \$4,365,000 from the General Revenue-Dedicated Account No. 5111, Designated Trauma Facility and Emergency Medical Services Account. The program will provide grant awards (“Grant”) to selected graduate medical and nursing education partnerships during the 2016-2017 biennium.

## **2.2 ALLOCATION OF FUNDING**

The funding available to support ETEP Graduate Medical Education Program Partnerships will be allocated among selected Applicants based on the number of additional residents or fellows that are projected to participate in each program.

## **2.3 GRANT PERIOD**

The Grant Period is from May 1, 2016 to June 30, 2018 (“Grant Period”).

**2.4 NOTICE OF INTENT DEADLINE:** October 15, 2015, 5:00 PM C.T.

**2.5 APPLICATION DEADLINE:** November 6, 2015, 5:00 PM C.T.

## **3 PROGRAM PURPOSE AND AUTHORITY**

### **3.1 PURPOSE OF ETEP GME PROGRAM**

The THECB is seeking to award Grants to ETEP GME Programs to support partnerships between Hospitals and graduate medical education programs in emergency and trauma care. ETEP Grants will support the provision of increased training opportunities for physicians in emergency and trauma care.

This RFA is seeking Applications from graduate medical education programs in the medical specialty/subspecialty areas of emergency medicine, pediatric emergency medicine, and surgical critical care.

### **3.2 PROGRAM AUTHORITY**

Texas Education Code, Section 61.9802 and Title 19, Texas Administrative Code, Chapter 6, Subchapter E.

## **4 ELIGIBILITY INFORMATION**

### **4.1 ELIGIBLE APPLICANT**

An eligible Applicant:

(a) is an existing, eligible GME program, or a Sponsoring Institution, as defined in Appendix A, that operates an existing, eligible GME program,

(b) partners with one or more Hospitals, as defined in Appendix A, and

(b) certifies an increase of additional physicians in the participating GME programs.

An eligible Applicant is hereinafter “Applicant” or “ETEP GME Program,” which, once selected, becomes an “Awarded Applicant.”

#### **4.2 ELIGIBLE GRADUATE MEDICAL EDUCATION PROGRAMS**

An eligible graduate medical education program:

- (a) is a nationally-accredited post-medical degree (M.D.) or doctor of osteopathic medicine (D.O.) non-military residency program or fellowship, and
- (b) prepares the physician to earn a board certification by the American Board of Medical Specialties or the Bureau of Osteopathic Specialties in Emergency Medicine, Pediatric Emergency Medicine, or Surgical Critical Care.

#### **4.3 MAXIMUM NUMBER OF SUBMISSIONS**

Each eligible graduate medical education program may submit only one (1) Application.

#### **4.4 COST SHARING OR MATCHING REQUIREMENTS**

There is no cost sharing or matching funds requirement. However, Awarded Applicants and collaborating partners shall share in the cost of supporting the ETEP GME Program.

### **5 NOTICE OF INTENT GUIDELINES**

#### **5.1 NOTICE OF INTENT IS REQUIRED**

A Notice of Intent for all Applicants must be submitted to THECB by the established deadline.

***Applications for which a Notice of Intent has not been submitted will not be considered for a Grant Award.***

**NOTICE OF INTENT DEADLINE:**

**October 15, 2015, 5:00 PM C.T.**

#### **5.2 NOTICE OF INTENT SUBMISSION**

The Notice of Intent must be completed and submitted by the Applicant via email to [ETEP@thecb.state.tx.us](mailto:ETEP@thecb.state.tx.us) no later than October 15, 2015, 5:00 PM C.T. After receipt of the electronic submission, THECB will email confirmation of receipt to Applicant.

The Notice of Intent form is available on the ETEP website. (<http://www.thecb.state.tx.us/ETEP>).

## 6 INQUIRIES

All inquiries shall be directed to the Point of Contact per RFA Section 1.3.

Applicants and prospective Applicants must not discuss an Application with any other THECB employee unless authorized by the THECB Point of Contact. Questions must be submitted in writing via email to [ETEP@thecb.state.tx.us](mailto:ETEP@thecb.state.tx.us).

All responses by THECB must be in writing to be binding.

Any information deemed by THECB to be important and of general interest or which modifies requirements of the RFA shall be sent in the form of an addendum to the RFA to all Applicants that have submitted a Notice of Intent or an Application. All Applicants must acknowledge receipt of all addenda, if any, to this RFA by an email to [ETEP@thecb.state.tx.us](mailto:ETEP@thecb.state.tx.us).

## 7 APPLICATION SUBMISSION GUIDELINES

Applicants must submit a completed Application via email to [ETEP@thecb.state.tx.us](mailto:ETEP@thecb.state.tx.us) no later than November 6, 2015, 5:00 PM C.T. Please refer to the ETEP website ([www.thecb.state.tx.us/ETEP](http://www.thecb.state.tx.us/ETEP)) to view and download the ETEP Application Form.

**APPLICATION DEADLINE:**  
**November 6, 2015, 5:00 PM C.T.**

## 8 APPLICATION FORMAT

The Application must include the elements described in Sections 8.1 through 8.6 of this RFA.

### 8.1 GENERAL PROGRAM INFORMATION

Provide general information on the ETEP GME Program, including:

- Name of Applicant Program
- Name of Sponsoring Institution
- Program Specialty or Subspecialty
- Program Length
- Program Original Accreditation Date
- Program Director Contact Information

## **8.2 DESCRIPTION OF PLANNED OR CONTINUING PROGRAM EXPANSION**

Provide the following information:

- Describe how the ETEP GME Program will, or will continue to, increase training opportunities in emergency and trauma care for physicians.
- Describe the impact, if any, of the planned or continuing expansion of the program on required ratios of faculty to residents/fellows.
- If the program plans to increase the number of residents/fellows beyond that currently approved by the ACGME or AOA, describe the process, including the timeline, for securing approval for the additional positions.

## **8.3 CURRENT AND PROJECTED PROGRAM RESIDENCY/ FELLOWSHIP POSITIONS**

This section of the Application must include:

- The number of residency/fellowship positions currently approved by the accrediting body.
- The number of filled residency/fellowship positions as of July 1, for each of the years of 2011 through 2015, inclusive. Include only those residents/fellows who participated in the program as of July 1 in each year, and remained in the program for at least six months thereafter. Data submitted in this section should align with program data submitted to THECB in the most recent CBM00R Report.
- The number of resident/fellow positions projected to be filled during the Grant Period.

## **8.4 BUDGET**

The budget must include Grant funds expenditures by amount in each Allowable Cost Category over the Grant Period. (See Section 9 for Allowable Cost Categories.) THECB shall negotiate a final budget with each Awarded Applicant.

## **8.5 ACCREDITATION**

*Documentation of Current Program Accreditation.* Provide the participating program's most recent accreditation letter from the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.

## **8.6 CERTIFICATION OF THE APPLICATION INFORMATION**

The Application must be certified and submitted by an individual who is legally authorized to submit the Application on behalf of the Applicant.

## **9 USE OF AWARD FUNDS**

Funds awarded under ETEP must be spent only on costs related to the operation of an Emergency and Trauma Care Education Partnership. All reasonable costs in the Allowable Cost Categories below are allowable except for those expressly prohibited in Section 9.4.

### **9.1 RESIDENT AND FELLOW COMPENSATION**

Salaries/stipends and benefits are allowed for any of the residents participating in the awarded program.

### **9.2 FACULTY AND STAFF COMPENSATION**

Costs for faculty and staff must reflect salaries appropriate to the tasks that will be performed and the length of time spent on ETEP-related activities.

### **9.3 RESIDENT AND FELLOW PROFESSIONAL LIABILITY INSURANCE**

Costs are allowed for professional liability insurance related to professional activities of residents or fellows within the participating residency or fellowship program.

### **9.4 PROHIBITED COSTS**

Programs are prohibited from expending ETEP funds on the following:

- Stipends or fringe benefit payments for residents subsidized by the military, Public Health Service, or other federal agencies. Such residents/fellows should NOT be reported under Section 8.3 of this RFA.
- Salaries or other stipends that are calculated at a higher pay rate than that which an individual (or similar position) normally receives at the sponsoring institution or participating site.
- Resident or fellow recruiting expenses, including travel, entertainment, and relocating expenses.
- Equipment or supplies.
- Construction or remodeling of facilities, architect's fees and feasibility studies.
- Rent paid to a public medical school.
- Application fees to the national accrediting body.
- Indirect costs.

### **9.5 BUDGET CHANGES**

Transfer of approved budgeted funds across budget categories is allowable, provided that overall expenditures do not exceed the total grant award.

## **10 SELECTION FOR FUNDING**

### **10.1 APPLICATION SCREENING**

THECB staff shall review Applications to determine if they adhere to the Grant program requirements and the funding priorities contained in the RFA. An Application must meet the requirements of the RFA and be submitted with proper authorization before or on the day specified by the THECB to qualify for further consideration. It is anticipated that Board staff will notify Applicants eliminated through the screening process within 30 days of the submission deadline.

### **10.2 SELECTION OF APPLICANTS FOR AWARDS**

**10.2.1** THECB staff shall evaluate Applications, which must demonstrate that the eligible ETEP GME Program will increase, or continue a previous increase in, the number of physicians trained in the medical specialty/subspecialty area of emergency medicine, pediatric emergency medicine, or surgical critical care.

**10.2.2** The available program funding will be allocated among selected Applicants based on the number of additional residents/fellows that are projected to participate in each ETEP GME Program during the Grant Period.

**10.2.3** THECB may limit the number of Grants awarded to individual Applicants.

**10.2.4** If an Applicant selected for an Award fails to verify to THECB that the awarded GME positions have been filled, funding may be reallocated to other qualified Applicants. (See Section 11)

### **10.2 RECOMMENDATION FOR FUNDING**

THECB staff shall make a recommendation of selected Applicants to be funded to the Commissioner. The Commissioner shall make the final funding decision and submit it to THECB Board members for their final approval as consistent with THECB Rule 1.16.

## **11 DISTRIBUTION OF AWARD FUNDS**

### **11.1 VERIFICATION OF FILLED POSITIONS**

**11.1.1** *Verification of filled positions.* To qualify for distribution of awarded funds, Awarded Applicant must submit verification to THECB that the awarded GME positions have been filled.

(a) For the FY 2016 funds distribution, Applicants will submit such verification during March – May 2016.

(b) For the FY 2017 funds distribution, Applicants will submit such verification during March – May 2017.

**11.1.2 *Awarded Positions Not Filled.*** If an Applicant selected for an Award fails to verify to THECB that the awarded GME positions have been filled, Applicant shall forfeit the award for any unverified positions.

## **11.2 NOTICE OF GRANT AWARD**

Following the announcement of awards and any negotiations between the THECB and each Awarded Applicant, the Awarded Applicants will receive an electronic copy of THECB's ETEP Notice of Grant Award (NOGA, Appendix B), which will take effect on the day the NOGA is executed. Throughout this RFA, the terms "NOGA," "Contract," and "Grant" are used interchangeably.

## **11.3 FUNDS DISTRIBUTION**

**11.3.1** ETEP is funded through a state appropriation from General Revenue-Dedicated Account No. 5111, Designated Trauma Facility and Emergency Medical Services Account. Awarded Applicant shall receive payments under ETEP through the Texas Comptroller of Public Accounts.

**11.3.2** Funding to Awarded Applicants will be disbursed in two payments. The first payment is anticipated in May 2016, and the second payment is anticipated in May 2017. The amount of each payment will be approximately fifty percent of the total award and will be determined by the actual number of GME positions verified as filled. THECB will disburse funding as follows:

(a) For FY 2016, upon 1) verification that the awarded GME positions have been filled for the academic year commencing on or about July 2016, and 2) upon execution of the NOGA;

(b) For FY 2017, upon verification that the awarded GME positions have been filled for the academic year commencing on or about July 2017.

**11.3.3** THECB is not bound by any award estimates in the RFA. Funding may be reduced or terminated if funds allocated to THECB should become reduced, depleted, or unavailable during the Grant Period. As consistent with the Uniform Grant Management Standards ("UGMS"), after making a finding that an Awarded Applicant has failed to perform or failed to conform to Grant Conditions, THECB may retract or reduce the Grant Amount for the Awarded Applicant.

**11.3.4** THECB shall not disburse awarded funds until the NOGA has been fully executed.

## **11.4 LAST DAY OF EXPENDITURES**

**11.4.1** At the discretion of THECB, unexpended funds may carry over from each year of the Grant Period.

**11.4.2** Grant Award funding must be expended by August 31, 2018.

## **11.5 RETURN OF UNEXPENDED FUNDS**

Grantee institutions shall return any unexpended funds at the end of the Grant Period.

## **12 REPORTING REQUIREMENTS**

Awarded Applicant must electronically submit for each funded program the reports listed in Sections 12.1 – 12.3 below. THECB will provide reporting instructions. When a report submission date falls on a weekend, the submission deadline is automatically extended to the next State of Texas Business Day (see Appendix A, Definitions).

### **12.1 ANNUAL PROGRAM REPORT**

An Annual Program Report shall be submitted electronically, via a secure server, to THECB in a format specified by THECB. The first report shall be submitted no later than June 1, 2017, and the second report shall be submitted no later than June 1, 2018. The report will include, but may not be limited to, an *Annual Roster of Residents and Fellows*. The roster will include the following data for each participating resident and fellow participating in the ETEP GME Program as of May 1: name, social security number, physician license number, medical school, gender and race/ethnicity. The Annual Roster must be certified by the Program Director.

### **12.2 INTERIM EXPENDITURE REPORT**

No later than June 1, 2017, an Interim Expenditure Report shall be submitted electronically to THECB in a format specified by THECB. The report will include, but may not be limited to total expenditures by Budget Category and unexpended balance as of March 31, 2017.

### **12.3 FINAL FINANCIAL REPORT**

No later than October 1, 2017 after the final fiscal year the Grant is active, Awarded Applicant shall submit electronically a Final Financial Report to THECB. The Final Financial Report shall 1) detail the actual expenditures for the grant period by purpose and amount, 2) document the unexpended balance of ETEP funds as of August 31, the end of the previous fiscal year, and 3) include a statement by the authorized institutional representative certifying expenditures and unexpended balance.

### **12.4 DELINQUENT REPORTS**

ETEP GME Programs with any required reports deemed to be delinquent may be ineligible to receive the second year of ETEP funding, or ineligible to participate in future funding cycles.

## **13 PROVISIONS AND ASSURANCES**

### **13.1 COST OF APPLICATION PREPARATION**

All costs associated with the preparation and submission of an Application for this RFA are the responsibility of Applicant. These costs shall not be chargeable to THECB by any successful or unsuccessful Applicant.

### **13.2 APPLICATION DELIVERY AND LATE APPLICATIONS**

**13.2.1** Applications must be submitted by an authorized agent of the Applicant.

**13.2.2** Applications shall be considered to be "on time" if they are received on or before the date and time of established deadlines. Applicant shall be solely responsible for ensuring that Application is received by THECB prior to the deadlines outlined in Section 2. THECB shall not be responsible for failure of electrical or mechanical equipment, operator error, or inability of an electronic delivery agent to deliver an Application prior to the deadline. Failure to respond in a timely manner to this RFA shall result in Applicant losing the opportunity to receive a Grant under this program. A late Application, regardless of circumstances, shall not be evaluated or considered for award.

### **13.3 CONFLICT OF INTEREST**

Applicants must disclose any existing or potential conflicts of interest relative to the performance of the requirements of this RFA. Failure to disclose a conflict of interest may be cause for disqualification of an Application or termination of a Contract resulting from this RFA. If, following a review of this information, it is determined by THECB that a conflict of interest exists, Applicants may be disqualified from further consideration.

### **13.4 CONTRACT**

**13.4.1** Submission of an Application confers no rights of Applicant to an award or to a subsequent Contract, if there is one. The issuance of this RFA does not guarantee that a Contract will ever be awarded. THECB reserves the right to amend the terms and provisions of the RFA, negotiate with Applicant, add, delete, or modify the Contract and/or the terms of Application submitted, extend the deadline for submission of Application, or withdraw the RFA entirely for any reason solely at THECB's discretion. An individual Application may be rejected if it fails to meet any requirement of this RFA. THECB may seek clarification and additional documentation from Applicant at any time, and failure to respond within a reasonable time frame is cause for rejection of an Application.

**13.4.2** Upon execution of a Contract resulting from this RFA, the term 'Applicant' shall have the same meaning as 'Awarded Applicant' or 'Grantee.' Likewise, the terms 'Request for Applications' and 'Application' shall have the same meaning as the term 'Contract.'

### 13.5 PROPRIETARY INFORMATION

During the performance of a project implemented under a Contract resulting from this RFA, Awarded Applicant may have access to data, information, files, and/or materials (collectively referred to as "data"), which are the property of THECB. These data shall be handled in a method that concurs with the Family Educational Rights and Privacy Act (FERPA) regulations and guidelines.

Applicant agrees to comply with FERPA, 20 U.S.C. Section 1232g, and the implementing federal regulations, 34 CFR Part 99. Applicant agrees (1) to protect any confidential student information it receives or accesses that could make a student's identity traceable, and (2) any confidential data analysis or report shall not be disclosed to any third party without THECB's prior written consent.

Awarded Applicant shall have a system in effect to protect all data received or maintained in connection with the activities of this RFA. Awarded Applicant agrees to use its best efforts to preserve the safety, security, and integrity of the data, and to ensure the privacy and confidentiality of all data. Any disclosure or transfer of proprietary information by Awarded Applicant shall be in accordance with applicable federal or Texas law.

### 13.6 RELEASE OF INFORMATION BY AWARDED APPLICANT

**13.6.1** Awarded Applicant shall NOT release any data that is not FERPA compliant. Failure to follow the guidelines established may result in immediate termination of the Contract.

**13.6.2** Awarded Applicant agrees to notify THECB Point of Contact of any information released to the news media regarding the activities being conducted under any Contract resulting from this RFA.

### 13.7 RELEASE OF APPLICATION INFORMATION BY THECB

**13.7.1 *Public Information Act.*** Awarded Applicant understands and acknowledges that as a Texas state agency, THECB is subject to the provisions of the Texas Public Information Act, Government Code, Chapter 552 as interpreted by judicial opinions and the opinion of the Attorney General of the state of Texas. Awarded Applicant will cooperate with THECB in the production of documents responsive to any such requests under the Public Information Act. **Awarded Applicant is required to make any information created or exchanged with the state pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state.** THECB will make a determination whether to submit a Public Information Act request to the Attorney General. This RFA, Awarded Applicant's Application, any Grant awarded to the Applicant and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. To the extent Grantee is subject to the Public Information Act, Grantee will notify THECB's General Counsel of any third party

requests for information it receives relating to this Agreement to the extent required under the act.

**13.7.2** All submitted Applications become the property of THECB after the RFA submittal deadline date. Upon acceptance of the Contract, all information submitted with Applicant’s Application becomes public record and all information submitted with Awarded Applicant’s Application becomes part of the Contract. Therefore, such information is subject to disclosure under the Texas Public Information Act, unless an exception under the Texas Public Information Act is applicable.

**13.7.3** Any proprietary information included in Applicant’s Application shall be subject to disclosure unless such proprietary information was clearly identified by Applicant, and such identification was submitted concurrently with the original submission of the proprietary information. Such identification of proprietary information shall be clearly marked in the Application at each page it appears. Such markings shall be in **boldface** type at least **14 point font**. Additionally, Applicant shall state the specific reason(s) an exception from the Texas Public Information Act is being claimed concurrently with the original submission of the proprietary information.

**13.7.4** If Awarded Applicant fails to clearly identify proprietary information with the original submission of the proprietary information, then those Sections will be deemed non-proprietary and made available upon public request after the Contract is awarded. The production of any material under the Contract shall not have the effect of violating or causing THECB to violate any law, including the Texas Public Information Act.

## **13.8 AMENDMENT AND TERMINATION**

**13.8.1** *Amendment.* Any amendment or change to the Grant which becomes necessary shall be accomplished by a formal Contract amendment signed and approved by duly authorized representatives of Awarded Applicant and THECB. None of the parties to the Contract will be bound by any oral statements, agreements, or representations contrary to the written Contract requirements and terms and conditions.

**13.8.2** *THECB Right to Terminate for Cause:* As consistent with applicable law, THECB may terminate the Contract, in whole or in part, immediately upon notice to Awarded Applicant, or at such later date as THECB may establish in such notice, upon the occurrence of any material breach, including, but not necessarily limited to, non-compliance with requirements and assurances outlined in the RFA or its Section 13 “Provisions and Assurances,” failure to provide accurate, timely, and complete information as required by THECB to evaluate the effectiveness of ETEP, or a failure to perform any of the work under the Contract to THECB’s satisfaction within the time specified herein or any extension thereof. Any instance of non-compliance shall constitute a material breach. THECB may, in its sole discretion, provide Awarded Applicant with an opportunity for consultation with THECB prior to termination. If

Awarded Applicant fails or refuses to perform its obligations under the Contract, THECB may exercise any and all rights as may be available to it by law or in equity.

**13.8.3 Interpretation.** As consistent with applicable law, the Contract may be terminated in the event that federal or state laws or other requirements or a judicial interpretation renders continued fulfillment of the Contract on the part of either party unreasonable or impossible. If the parties hereto should be unable to agree upon amendment which would thereafter be needed to enable the substantial continuation of the services contemplated herein, then, upon written notification by THECB to Awarded Applicant, the parties shall be discharged from any further obligations created under the terms of the Contract, except for the equitable settlement of the respective accrued interests or obligations incurred up to the date of termination. THECB reserves the right, at its sole discretion, to unilaterally amend the Contract throughout the Contract Term to incorporate any modifications necessary for THECB's compliance, as an agency of the state of Texas, with all applicable state and federal laws, rules, regulations, requirements, and guidelines.

**13.8.4 Effect of Termination.** As consistent with applicable law, upon receipt of written notice to terminate, Awarded Applicant shall promptly discontinue all Services affected (unless the notice directs otherwise), refund partially or fully all Grant proceeds in accordance with written notice, and shall deliver or otherwise make available to THECB, a summary of work products developed by Awarded Applicant under the Contract, whether completed or in process. Upon any termination, all indemnities, including without limitation those set forth in the Contract, as well as Contract provisions regarding confidentiality, records retention, right to audit, and dispute resolution, shall survive the termination of the Contract for any reason whatsoever and shall remain in full force and effect. THECB shall be liable to Awarded Applicant for that portion of the Services authorized by THECB and which have been completed prior to the effective date of termination, provided that THECB shall not be liable for any work performed that is not acceptable to THECB and/or does not meet Contract requirements.

**13.8.5** In the event of termination, THECB reserves the right to negotiate a Contract based on another Applicant's submission if it is in the state's best interest.

## **13.9 NOTICE**

Any notice or written communication between the parties shall be considered delivered when postmarked, except that such notice or written communications sent by certified mail, return receipt requested, or delivered in person to the authorized representative of the party designated in accordance with the Contract shall be considered to be delivered when received.

## **13.10 ASSIGNMENT OR SUBCONTRACTING**

No rights, interest, or obligations in a Contract resulting from this RFA shall be assigned, delegated, or subcontracted by Awarded Applicant without prior written permission of THECB Point of Contact at THECB. Any attempted assignment,

delegation, or subcontract by Awarded Applicant shall be wholly void and totally ineffective for all purposes unless made in conformity with this Paragraph. No delegation, assignment, or subcontract shall relieve Awarded Applicant of any responsibility under this RFA.

## **13.11 LIABILITY AND INDEMNIFICATION**

### **13.11.1 LIABILITY**

**13.11.1.1** Neither THECB’s review, approval, or acceptance of, nor payment for any of the services provided hereunder shall be construed to operate as a waiver of any rights under the Contract, or of any cause of action arising out of the performance of the work required by the Contract.

**13.11.1.2** THECB shall have no liability except as specifically provided by law.

**13.11.1.3** *Sovereign Immunity.* THECB and Awarded Applicant stipulate and agree that no provision of, or any part of the Contract between THECB and Awarded Applicant, or any subsequent change order, amendment, or other Contract modification shall be construed: (1) as a waiver of the doctrine of sovereign immunity or immunity from suit as provided for in the Texas Constitution and the Laws of the State of Texas; (2) to extend liability to THECB or Awarded Applicant beyond such liability provided for in the Texas Constitution and the Laws of the State of Texas; or (3) as a waiver of any immunity provided by the 11th Amendment or any other provision of the United States Constitution or any immunity recognized by the Courts and the laws of the United States.

### **13.11.2 INDEMNIFICATION**

#### **(THIS SECTION DOES NOT APPLY TO STATE AGENCIES)**

**13.11.2.1** *Acts or Omissions.* Grantee shall indemnify and hold harmless the State of Texas and THECB AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from, any acts or omissions of the Grantee or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in execution or performance of the Agreement. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND THE GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. GRANTEE AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

**13.11.2.2** *Infringements.*

(a) Grantee shall indemnify and hold harmless the State of Texas, THECB AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF GRANTEE PURSUANT TO THIS AGREEMENT. GRANTEE AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

(b) Grantee shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) used of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Grantee's written approval, (iii) any modifications made to the product by the Grantee pursuant to THECB's specific instructions, (iv) any intellectual property right owned by or licensed to THECB, or (v) any use of the product or service by THECB that is not in conformity with the terms of any applicable license agreement.

(c) If Grantee becomes aware of an actual or potential claim, or THECB provides Grantee with notice of an actual or potential claim, Grantee may (or in the case of an injunction against THECB, shall), at Grantee's sole option and expense; (i) procure for THECB the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that THECB's use is non-infringing.

**13.11.2.3** *Taxes/ Workers' Compensation/Unemployment Insurance – Including Indemnity.*

(a) GRANTEE AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, VENDOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF GRANTEE'S AND GRANTEE'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT. GRANTEE AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THECB AND/OR THE STATE SHALL NOT BE LIABLE TO THE GRANTEE, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY.

(b) GRANTEE AGREES TO INDEMNIFY AND HOLD HARMLESS THECB, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS AGREEMENT. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY GRANTEE WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. GRANTEE AND THECB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

### **13.12 INSURANCE**

#### **(THIS SECTION DOES NOT APPLY TO STATE AGENCIES)**

For private entities, Grantee agrees to maintain at its expense insurance as required for the work being performed under this Agreement. Such insurance will protect THECB from all claims for bodily injury, death, or property damage which may arise out of or result from the performance of the Grantee's obligations under the Agreement.

### **13.13 SEVERABILITY AND STRICT PERFORMANCE**

The invalidity, illegality, or unenforceability of any provisions of the Contract shall in no way affect the validity, legality, or enforceability of any other provisions.

Each and every right granted to THECB and Awarded Applicant hereunder or under any other document delivered hereunder or in connection herewith, or allowed them by law or equity, shall be cumulative and may be exercised from time to time. Failure by THECB or Awarded Applicant at any time to require strict performance of any contractual provision or obligation contained herein shall not constitute a waiver or diminish the rights of either party thereafter to demand strict compliance. THECB's review, approval, acceptance of, or payment for any of the services provided in the Contract shall not be construed to operate as a waiver of any of its rights under the Contract, or of any cause of action arising out of the performance of the services required by the Contract.

### **13.14 CONFLICTING RFA LANGUAGE**

In the event that language contained in a particular Section of the RFA is found to be in conflict with language in another Section, the most stringent requirement(s) shall prevail.

### **13.15 INSPECTIONS/SITE VISITS**

Throughout the Contract Term, THECB and/or its representatives shall have the right to make site visits to review partnership program operations and accomplishments.

### **13.16 AUDIT AND ACCESS TO RECORDS**

**13.16.1** Pursuant to Texas Government Code 2262.003, Awarded Applicant acknowledges that acceptance of funds under the Contract acts as acceptance of the authority of (1) the Texas State Auditor's Office, or any successor agency, (2) the Texas State Auditor's Office or any successor agency, under the direction of the Texas Legislative Audit Committee, (3) THECB's Internal Auditor, and (4) any external auditors selected by THECB, the State Auditor's Office, or by the United States (collectively referred to as "Audit Entities"), to conduct an audit or investigation in connection with those funds. Awarded Applicant further agrees to cooperate fully with Audit Entities in the conduct of the audit or investigation, including providing all records requested. Awarded Applicant shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Awarded Applicant and the requirement to cooperate is included in any subcontract Awarded Applicant awards.

**13.16.2** Awarded Applicant shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Awarded Applicant in connection with the Contract. These records and accounts (which includes all receipts of expenses incurred by Awarded Applicant) shall be retained by Awarded Applicant and made available for inspecting, monitoring, programmatic or financial auditing, or evaluation by THECB and by others authorized by law or regulation to do so for a period of not less than five (5) years from the date of completion of the Contract or the date of the receipt by THECB of Awarded Applicant's final claim for payment or final expenditure report or until a resolution of all billing questions in connection with the Contract, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed. Awarded Applicant shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Contract. Awarded Applicant and any subcontractors shall provide any Audit Entities with any information the entity deems relevant to any monitoring, investigation, evaluation, or audit.

**13.16.3** Each Grantee institution or hospital shall have a system established in writing to ensure that appropriate officials provide all necessary organizational reviews and approvals for the expenditure of funds and for monitoring project performance and adherence to Grant terms and conditions under the Contract.

**13.16.4** THECB reserves the right to require the reimbursement of any over-payments determined as a result of any audit or inspection of records kept by Awarded Applicant on work performed under the Contract. Awarded Applicant shall reimburse THECB within 30 calendar days of receipt of notice from THECB of

overpayment. Awarded Applicant's failure to comply with this "Audit and Access to Records" subsection shall constitute a material breach of the Contract.

### **13.17 ACCOUNTING SYSTEM**

Awarded Applicant shall have an accounting system that accounts for cost in accordance with generally accepted accounting principles. Awarded Applicant's accounting system must include an accurate and organized file/records system for accounting and financial purposes for providing backup materials for billings.

### **13.18 NON-APPROPRIATION OF FUNDS**

The Contract may be terminated if funds allocated to THECB should become reduced, depleted, or unavailable during the Contract period, and to the extent that THECB is unable to obtain additional funds for such purposes. THECB shall negotiate efforts as first consideration and if such efforts fail, then THECB shall immediately provide written notification to the Awarded Applicant of such fact and the Contract shall be deemed terminated upon receipt of the notification, and neither party shall have any further rights or obligations hereunder. Awarded Applicant shall not incur new obligations after the effective date of termination and shall cancel as many outstanding obligations as reasonably practicable. THECB shall be liable for costs incurred up to the time of such termination. Under no circumstances shall this RFA or any provisions herein be construed to extend the duties, responsibilities, obligations, or liabilities of the State of Texas or THECB beyond the then existing biennium.

### **13.19 STATE FISCAL COMPLIANCE GUIDELINES**

The standard financial management conditions and uniform assurances set out in the RFA are applicable to all grants, cooperative agreements, contracts and other financial assistance arrangements executed between state agencies, local governments and any other sub-recipient not specifically excluded by state or federal law. All applicable conditions and uniform assurances can be found at <http://governor.state.tx.us/files/state-grants/UGMS062004.doc>.

### **13.20 APPLICABLE LAW AND VENUE**

The Contract and any incorporated documents shall be governed by and construed in accordance with the laws of the State of Texas. The exclusive venue of any suit brought concerning the Contract and any incorporated documents is fixed in any Court of competent jurisdiction in Travis County, Texas, and all payments under the Contract shall be due and payable in Travis County, Texas.

### **13.21 APPLICANT RESPONSIBILITIES**

Applicant shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations (including the THECB rules relating to the ETEP program as codified in Title 19, Part 1 of the Texas Administrative Code) and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting the

performance of the Contract, including, if applicable, workers compensation laws, compensation statutes and regulations, and licensing laws and regulations. When requested to do so by THECB, Applicant shall furnish THECB with satisfactory proof of its compliance.

### **13.22 KEY PERSONNEL**

Awarded Applicant, in its reasonable discretion, reserves the right to substitute appropriate key personnel to accomplish its duties so long as the substituted personnel are equally qualified in the tasks necessary to meet ETEP requirements and outcomes. Awarded Applicant shall notify THECB Point of Contact of any change in Program Director.

### **13.23 ELIGIBILITY/AUTHORIZATION TO WORK IN THE UNITED STATES**

Awarded Applicant shall ensure that all personnel provided to perform work under the Contract possess proof of eligibility/authorization to work in the United States in compliance with the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Awarded Applicant shall maintain written records on all personnel provided under the Contract and shall provide such records to THECB upon request. Failure to maintain and provide records upon request shall represent a material breach of this Contract and THECB shall have the right to terminate the Contract for cause. Awarded Applicant shall ensure this section is included in all subcontracts it is authorized by THECB to enter.

### **13.24 SUPPLANTING PROHIBITION**

A Grant Award may not be used to replace federal, state, or local funds.

### **13.25 FORMS, ASSURANCES, AND REPORTS**

Awarded Applicant shall timely file with the proper authorities all forms, assurances and reports required by state laws and regulations. THECB shall be responsible for reporting to the proper authorities any failure by Awarded Applicant to comply with the foregoing laws and regulations coming to THECB's attention, and may deny reimbursements or recover payments made by THECB to Awarded Applicant in the event of Awarded Applicant's failure to so comply.

### **13.26 AFFIRMATION CLAUSES**

Applicant has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, travel, favor, or service to a THECB public servant, including employees, in connection with the submitted response.

Neither Applicant nor the firm, corporation, partnership, entity, or institution represented by Applicant or anyone acting for such firm, corporation, partnership, entity, or institution has (1) violated the antitrust laws of the State of Texas under

Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws, or (2) communicated the contents of this Application either directly or indirectly to any competitor or any other person engaged in the same line of business during the procurement process for this RFA.

If applicable, the Texas business address shown herein is, in fact, the legal business address of Applicant and Applicant qualifies as a Texas Resident Bidder under Texas Government Code Chapter 2252.

Under Texas Government Code § 2155.004, no person who was compensated by the THECB to assist in preparing the RFA specifications or this RFA has any financial interest in Applicant's Application. If Applicant is not eligible, then any contract resulting from this RFA shall be immediately terminated. Further, under Section 2155.004, Texas Government Code, Applicant certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

THECB is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing Applicants with the Federal General Services Administration's System for Award Management (SAM, <http://www.sam.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Applicant is not so prohibited from entering into this contract. Moreover, Applicant further certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Applicant is in compliance with the State of Texas statutes and rules relating to procurement and that Applicant is not listed on the federal government's terrorism watch list as described in Executive Order 13224. (Entities ineligible for federal procurement are listed at <http://www.sam.gov>.)

Under Section 2155.006(b) of the Texas Government Code, a state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459(a)(2), Texas Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459(a)(2), Texas Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, Applicant certifies

that the individual or business entity named in this Application is not ineligible to receive a contract resulting from this RFA and acknowledges that any contract resulting from this RFA may be terminated and payment withheld if this certification is inaccurate.

## Appendix A

### RFA DEFINITIONS

The following definitions shall apply:

1. **Applicant** – An eligible Texas graduate medical education program, as defined in Section 4.2 of this RFA, submitting an Application in accordance with the terms and conditions of this RFA.
2. **Application** – The final document submitted by an Applicant to THECB in response to and in accordance with the terms of this RFA.
3. **Awarded Applicant** – The successful recipient ultimately awarded a Grant by THECB who is responsible for performing all services and activities required to fully comply with Grant performance requirements and all Grant terms and conditions.
4. **ETEP** – The Emergency and Trauma Care Education Partnership Program.
5. **Fellow** – A physician who has completed training in at least one residency program and is pursuing additional clinical training leading to a certificate of special competence.
6. **FERPA** – The Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g, and the federal regulations, 34 CFR Part 99, which is a federal law regarding the privacy of student records and the obligations of the institution, primarily in the areas of release of the records and the access provided to these records. Any educational agency or institution that receives funds under any program administered by the U.S. Secretary of Education is bound by FERPA requirements. Institutions that fail to comply with FERPA may have funds administered by the Secretary of Education withheld.
7. **Graduate Medical Education (GME)** – A nationally-accredited post-medical degree (M.D.) or post-doctor of osteopathic medicine degree (D.O.) program that prepares physicians for the independent practice of medicine in a specific specialty area, also referred to as residency training or fellowship. The term also applies to the period of didactic and clinical education in a medical subspecialty which follows the completion of education in a recognized medical specialty, and which prepares physicians for the independent practice of medicine in that subspecialty, also referred to as a fellowship.
8. **Hospital** – A Texas health care facility, as defined in Texas Health & Safety Code, Section 241.003, and includes a hospital owned, maintained, or operated by the state, but does not include a facility that is owned, maintained, or operated by the federal government or an agency of the federal government.

9. **Medical School** – A public or independent medical institution that awards the doctor of medicine (M.D.) or doctor of osteopathic medicine (D.O.) degree, as defined in Texas Education Code, Section 61.003(5) or Section 61.501(1).
10. **NOGA** – Notice of Grant Award – Term applied to the official document used by THECB to notify grantees that funding has been approved. NOGAs include such information as award amount, project and budget periods, and specific award terms and conditions. The NOGA creates a legally binding agreement between the parties and incorporates the RFA and the Application into the agreement. Throughout this RFA the terms “NOGA,” “Contract,” and “Grant” are used interchangeably.
11. **PGY** – Refers to a resident's or fellow's current year of accredited graduate medical education. This designation may or may not correspond to the resident's year in a particular program. For example, a resident in pediatric emergency medicine could be in the first program year of the pediatric emergency medicine program but in his/her fourth graduate year of graduate medical education (including the three prior years of pediatrics.)
12. **Program Director:** The one physician designated with authority and accountability for the operation of the residency/fellowship program and who will serve as the primary contact for the THECB regarding ETEP matters.
13. **Resident Physician** – A physician contractually obligated to a Texas medical school, licensed Hospital, or non-profit corporation to receive residency education and training for a specified period of time.
14. **Sponsoring Institution:** The organization (or entity) that assumes the ultimate financial and/or academic responsibility for a program of GME. The sponsoring institution has the primary purpose of providing educational programs and/or health care services (e.g., a university, a medical school, a Hospital, a school of public health, a health department, a public health agency, an organized health care delivery system, a medical examiner's office, a consortium, an educational foundation).
15. **State of Texas Business Days** - Monday through Friday, 8:00 AM to 5:00 PM C.T., except for scheduled State of Texas and national holidays.
16. **THECB** – The Texas Higher Education Coordinating Board, an agency of the State of Texas.



## Appendix B

### NOGA

THECB Award Number: {bmsReference}

Appropriation Year: {encumbrance AY}

## ANTICIPATED Notice of State Grant Award

to

### {contracted\_party}

Grantee Name and Address:  {contracted_party} {contractedPartyAddress} {contractedPartyCity}, {contractedPartyState} {contractedPartyZip}	Grant Title: <b>Emergency and Trauma Care Education Partnership Program - GME</b>
	Amount of Award: \$ {total_\$}
	Division: <b>Academic Quality and Workforce</b>
	Term of Grant: <b>May 1, 2016– June 30, 2018</b>
	Payment Method: <b>Approximately 50% upon 1) verification that funded positions have been filled for July 2016 and 2) execution of NOGA; approximately 50% upon verification that funded positions have been filled for July 2017</b> The advancement of funds is necessary to enable the Grantee to fully perform the Services described in its Applications
Authority: <b>Texas Education Code, Chapter 61, Subchapter HH, Texas Emergency and Trauma Care Education Partnership Program</b>	
<p>The Texas Higher Education Coordinating Board's ("THECB") and the Grantee's (collectively, referred to as "the parties") execution of this Notice of Grant Award creates a legally binding agreement between the parties. The Program requirements (e.g., objectives, scope, budget, methodology) as stated in (1) the original Request for Application ("RFA") including any addenda issued, (2) addenda to the Grantee's Application (if any), and (3) Grantee's Application are incorporated into and made a part of this Notice of Grant Award for all purposes, supersede any prior or contemporaneous understandings between the parties pertaining to the subject matter herein whether oral or written, and collectively constitute the entire agreement between the parties. In the event of a conflict in the language contained in the incorporated documents, conflicts shall be resolved by reference to the language contained in the documents in the order listed above.</p> <p>Any changes in the approved Grant must follow THECB's amendment process as defined in the RFA. Any funds received by Grantee and not expended prior to the end of the grant term indicated above shall be returned to THECB within thirty (30) days unless otherwise agreed by THECB and Grantee.</p>	
<b>Approving THECB Official:</b>	<b>Approving Grantee Official:</b>
{signContact} {signContacttitle}	{signed_by} {signed_bytitle}
<b>Date:</b>	<b>Date:</b>